

**UNITED STATES OF AMERICA  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

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Judge Wm. Terrell Hodges  
United States District Court  
Middle District of Florida

**MEMBERS:**

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United States District Court  
Southern District of New York

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

**DIRECT REPLY TO:**

Michael J. Beck  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: [202] 502-2800  
Fax: [202] 502-2888

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**FEB 21 2006**

**U.S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS**

February 14, 2006

Loretta G. Whyte, Clerk  
C-151 U.S. Courthouse  
500 Poydras Street  
New Orleans, LA 70130-3367

Re: MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

**The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.**

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By

*Samuel Lee*  
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon  
Transferor Judges: (See Attached List of Judges)  
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A

FEB 14 2006

DOCKET NO. 1657

FILED  
CLERK'S OFFICE

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS  
LIABILITY LITIGATION**

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.  
LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR.,  
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

**TRANSFER ORDER**

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in 80 actions and by health care defendants in the District of Massachusetts action and the Western District of Texas action to vacate the Panel's orders conditionally transferring the actions listed on Schedule A to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

Some opposing plaintiffs and the health care defendants argue that the presence of individual and/or local questions of fact as well as differing legal theories should militate against inclusion of these actions in MDL-1657 proceedings. We are unpersuaded by these arguments. Inclusion of these actions in Section 1407 proceedings has the salutary effect of placing all the related actions before a single judge who can formulate a pretrial program that: 1) prevents repetition of previously considered matters;

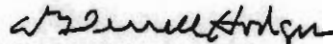
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\* Judge Motz took no part in the decision of this matter.

2) allows pretrial proceedings with respect to any non-common issues to proceed concurrently with pretrial proceedings on common issues, *In re Multi-Piece Rim Products Liability Litigation*, 464 F.Supp. 969, 974 (J.P.M.L. 1979); and 3) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. *See In re StarLink Corn Products Liability Litigation*, 152 F.Supp.2d 1378 (J.P.M.L. 2001). It may be, on further refinement of the issues and close scrutiny by the transferee judge, that some claims or actions can be remanded to their transferor districts for trial in advance of the other actions in the transferee district. Should the transferee judge deem remand of any claims or actions appropriate, procedures are available whereby this may be accomplished with a minimum of delay. *See* Rule 7.6, R.P.J.P.M.L., 199 F.R.D. at 436-38.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges  
Chairman

## SCHEDULE A

### MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation

#### Middle District of Alabama

*Theatus Rawdon Beaty v. Merck & Co., Inc., et al.*, C.A. No. 2:05-880

#### Southern District of Illinois

*Elvin Elswick v. Merck & Co., Inc., et al.*, C.A. No. 3:05-645

*Stanely McNulty v. Merck & Co., Inc., et al.*, C.A. No. 3:05-661

*Gary Grizzell v. Merck & Co., Inc., et al.*, C.A. No. 4:05-4170

#### Eastern District of Kentucky

*Ronald E. Smith, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-68

*James Parsons, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-412

*Gene Patterson, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-413

*Maudie F. Jones, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-425

*Gerlene Stacy v. Merck & Co., Inc.*, C.A. No. 6:05-525

*Bonnie Engle v. Merck & Co., Inc.*, C.A. No. 6:05-565

*James T. Bevins, et al. v. Merck & Co., Inc.*, C.A. No. 7:05-317

*James Howell, et al. v. Merck & Co., Inc.*, C.A. No. 7:05-330

#### Western District of Kentucky

*Elvis Meadors v. Merck & Co., Inc., et al.*, C.A. No. 1:05-136

*Harold Reiser v. Merck & Co., Inc., et al.*, C.A. No. 1:05-156

*James W. Thompson, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-549

*Jerry W. Kinslow, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-550

*Carl D. Mahan, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-565

*Samuel Bain, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-566

*Wenceslaus Klimesh, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-568

*Glen Kelly v. Merck & Co., Inc.*, C.A. No. 3:05-569

*Barry M. Kinslow v. Merck & Co., Inc.*, C.A. No. 3:05-570

*Barbara A. Reeves, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-571

*Betty Wooldridge, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-572

*Bernice Eversole, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-573

*Earl G. Crank, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-581

*Phillip Metcalf, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-582

*Allen Dowell, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-585

*Lois Zoll v. Merck & Co., Inc.*, C.A. No. 3:05-586

*Helen Dennison v. Merck & Co., Inc.*, C.A. No. 3:05-587

*Lana Yaggie, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-588

*Kim Young, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-589

*William E. Garrett, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-590



Western District of Kentucky (continued)

*William M. Adams, Jr., et al. v. Merck & Co., Inc.*, C.A. No. 3:05-591  
*Linda Howard, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-592  
*Richard Wigginton, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-593  
*Sharon McDonald v. Merck & Co., Inc., et al.*, C.A. No. 3:05-595  
*Dennie Miller, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-600  
*David G. Thomas v. Merck & Co., Inc.*, C.A. No. 3:05-601  
*George R. Hubbard, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-602  
*Joseph E. Newton, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-603  
*Elmer Smith, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-605  
*Violet Bailey, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-606  
*Joyce Skillman v. Merck & Co., Inc.*, C.A. No. 3:05-607  
*Charles Ball, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-608  
*Lucky Daniels, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-609  
*Lovell S. Cottrell, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-610  
*Charles Orange, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-615  
*Earl J. Estep, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-616  
*Michael T. Mooney, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-617  
*Juanita King v. Merck & Co., Inc.*, C.A. No. 3:05-618  
*Marjorie Staten, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-619  
*Bernard Griffin, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-620  
*Anthony Long, etc. v. Merck & Co., Inc.*, C.A. No. 3:05-621  
*Cleo D. Gilbert, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-622  
*Vanessa Wisenbaler v. Merck & Co., Inc.*, C.A. No. 3:05-626  
*Charles Nantz, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-627  
*Annie Hendrix v. Merck & Co., Inc.*, C.A. No. 3:05-628  
*Carolyn A. Ward v. Merck & Co., Inc.*, C.A. No. 3:05-629  
*William E. Kaufman, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-630  
*Donna C. Russel, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-631  
*Delbert Rakes, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-632  
*Timmy Glass, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-646

District of Massachusetts

*Kathleen Martin v. Merck & Co., Inc., et al.*, C.A. No. 1:05-11716

Eastern District of Missouri

*Michael Elder, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1268  
*Nina Cook, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1272  
*George Likins, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1273  
*Tyrone Dawson, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1291  
*Evelyn Light, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1463  
*Fulton Lacy, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1465

Eastern District of Missouri (continued)

*Roberta Sterling, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1466  
*Betty Jean Gant et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1490  
*Jane Latham, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1491  
*Jefferson Euell, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1497  
*Barbara Gustin, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1514  
*Martin Zide, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1520  
*Ginger Hugo, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-1557

Western District of Missouri

*Jimmie Collins v. Merck & Co., Inc., et al.*, C.A. No. 3:05-5142

Southern District of New York

*Douglas A. Spalter, et al. v. Merck & Co., Inc., et al.*, C.A. No. 1:05-7301

Western District of New York

*Brian North v. Merck & Co., Inc., et al.*, C.A. No. 6:05-6475

Eastern District of Tennessee

*James E. Queen, et al. v. Merck & Co., Inc.*, C.A. No. 1:05-283

Western District of Texas

*Sulema L. Banda, et al. v. Merck & Co., Inc., et al.*, C.A. No. 5:05-950

**INVOLVED COUNSEL LIST**  
**DOCKET NO. 1657**  
**IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION**

T. Scott Allen  
 Cruse Scott Henderson & Allen, LLP  
 2777 Allen Parkway, 7th Floor  
 Houston, TX 77019-2133

Dan H. Ball  
 Bryan Cave, L.L.P.  
 One Metropolitan Square  
 211 N. Broadway, Suite 3600  
 St. Louis, MO 63102-2750

Andy D. Birchfield, Jr.  
 Beasley, Allen, Crow, Methvin, Portis  
 & Miles, PC  
 P.O. Box 4160  
 Montgomery, AL 36103-4160

Gregory J. Bubalo  
 Bubalo & Hiestand, PLC  
 401 S. Fourth Street, Suite 800  
 Brown & Williamson Tower  
 Louisville, KY 40202

Evan D. Buxner  
 Walther Glenn Law Associates  
 1034 South Brentwood Blvd.  
 Suite 1300  
 St. Louis, MO 63117

John J. Carey  
 Carey & Danis, LLC  
 8235 Forsyth Boulevard, Suite 1100  
 St. Louis, MO 63105

John A. Combs  
 Frost, Brown & Todd, L.L.C.  
 250 West Main Street, Suite 2700  
 Lexington, KY 40507-1742

Thomas A. Countryman  
 Fulbright & Jaworski, L.L.P.  
 300 Convent Street, Suite 2200  
 San Antonio, TX 78205-3792

Lawrence T. D'Aloise, Jr.  
 Clark, Gagliardi & Miller, P.C.  
 99 Court Street  
 White Plains, NY 10601-4265

John M. Dellea  
 Ficksman & Conley, LLP  
 98 North Washington Street, Suite 500  
 Boston, MA 02114

David A. Dick  
 Thompspon Coburn, LLP  
 One US Bank Plaza, Suite 2600  
 St Louis, MO 63101

Aaron K. Dickey  
 Goldenberg, Miller, Heller  
 & Antognoli, P.C.  
 2227 South State Route 157  
 P.O. Box 959  
 Edwardsville, IL 62025-0959

James J. Dillon  
 Foley Hoag, LLP  
 155 Seaport Boulevard  
 Seaport World Trade Center West  
 Boston, MA 02210-2600

James M. Doran, Jr.  
 Waller, Lansden, Dortch & Davis  
 511 Union Street, Suite 2700  
 Nashville, TN 37219

John J. Driscoll  
 Brown & Crouppen, PC  
 720 Olive Street, Suite 1800  
 St. Louis, MO 63101-2302

Robert T. Ebert, Jr.  
 Bryan Cave, L.L.P.  
 One Metropolitan Square  
 211 N. Broadway, Suite 3600  
 St. Louis, MO 63102

Francis J. Flynn  
 Jeffrey J. Lowe, P.C.  
 8235 Forsyth Blvd., Suite 1100  
 St. Louis, MO 63105

James P. Frickleton  
 Bartimus, Frickleton, Robertson  
 & Obetz, P.C.  
 11150 Overbrook Drive, Suite 200  
 Leawood, KS 66211

Vilia B. Hayes  
 Hughes, Hubbard & Reed, LLP  
 One Battery Park Plaza  
 New York, NY 10004

Russ M. Herman  
 Herman, Herman, Katz & Cotlar, L.L.P.  
 820 O'Keefe Avenue  
 New Orleans, LA 70113

Norman C. Kleinberg  
 Hughes Hubbard & Reed, LLP  
 One Battery Park Plaza  
 12th Floor  
 New York, NY 10004-1482

Andrea B. Lamere  
 Schaeffer & Lamere, PC  
 5512 Godfrey Road, Suite B  
 Godfrey, IL 62035

Deborah R. Lewis  
 Law Offices of Deborah R. Lewis, PLLC  
 P.O. Drawer 1179  
 Hazard, KY 41702

Gary S. Logsdon  
 Logsdon & Hawkins, P.S.C.  
 1647 Scottsville Road  
 P.O. Box 3400  
 Bowling Green, KY 42102-3400

Jeffrey J. Lowe  
 Jeffrey J. Lowe, PC  
 8235 Forsyth Boulevard, Suite 1100  
 St. Louis, MO 63105

Edward F. Mahoney  
 Martin, Magnuson, McCarthy & Kenney  
 101 Merrimac Street  
 Boston, MA 02114-4716

Kurt W. Maier  
 English, Lucas, Priest & Owsley, LLP  
 1101 College Street  
 P.O. Box 770  
 Bowling Green, KY 42102-0770

Chad Matthews  
 Sanes & Matthews  
 3027 Marina Bay Drive, Suite 320  
 League City, TX 77573

Winston E. Miller  
 Frost, Brown & Todd, L.L.C.  
 400 West Market Street, 32nd Floor  
 Louisville, KY 40202-3363

Ronald E. Mitchell  
 Blanchard, Robertson, Mitchell & Carter,  
 P.C.  
 320 W. Fourth Street  
 Joplin, MO 64802

Ann B. Oldfather  
Oldfather & Morris  
1330 South Third Street  
Louisville, KY 40208

Susan J. Pope  
Frost, Brown & Todd, L.L.C.  
250 West Main Street, Suite 2700  
Lexington, KY 40507-1749

John P. Rahoy  
Brown & James, P.C.  
1010 Market Street, 20th Floor  
St. Louis, MO 63101

D. Brian Rattliff  
Bubalo & Hiestand, PLC  
401 South Fourth Street, Suite 800  
Louisville, KY 40202

Roberto Serna  
Law Office of Roberto Serna  
P.O. Box 603  
Crystal City, TX 78839

Michael D. Shalhoub  
Heidell, Pittoni, Murphy & Bach, LLP  
99 Park Ave.  
New York, NY 10016

Donald G. Smith  
Donald G. Smith Law Offices, PLLC  
470 Main Street, Suite 3  
P.O. Box 600  
Hazard, KY 41702

Randy J. Soriano  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Stephen G. Strauss  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Bryant M. Struble  
Thompson & Coburn, LLP  
One US Bank Plaza, Suite 2600  
St. Louis, MO 63101

Stephen M. Strum  
Sandberg, Phoenix & Von Gontard  
One City Centre, 15th Floor  
St. Louis, MO 63101-1880

Tyler S. Thompson  
Dolt, Thompson, Shepherd & Kinney  
455 S. 4th Street  
310 Starks Building  
Louisville, KY 40202

Andrew K. Tine  
Haese, LLC  
30 Federal Street, Third Floor  
Boston, MA 02110

David A. Trevey  
Lynn, Fulkerson, Nichols & Kinkel, PLLC  
267 W. Short Street  
Lexington, KY 40507

George F. Verschelden  
Stinson Morrison Hecker, LLP  
1201 Walnut Street, Suite 2800  
Kansas City, MO 64106-6251

Theresa M. Walsh  
Brown & Chiari, LLP  
5775 Broadway  
Lancaster, NY 14086

Anna M. Warnock  
Frost, Brown & Todd, L.L.C.  
250 West Main Street  
2700 Lexington Financial Center  
Lexington, KY 40507-1749

Flossie Weill  
Weill, Durand & Long, PLLC  
Two Union Square  
700 Tallan Building  
Chattanooga, TN 37402-2207

Steven J. Weinberg  
Weinbeg & Weinberg  
3200 Southwest Freeway, Suite 3100  
Houston, TX 77027

Benjamin C. Wilson  
Rushton, Stakely, Johnston & Garrett, PA  
184 Commerce Street  
P.O. Box 270  
Montgomery, AL 36101-0270

Phillip A. Wittmann  
Stone, Pigman, Walther & Wittmann, LLC  
546 Carondelet Street  
New Orleans, LA 70130-3588

Christopher A. Wright  
Hersheve Law Firm  
431 Virginia Avenue  
Joplin, MO 64801



**INVOLVED JUDGES LIST  
DOCKET NO. 1657**

**IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION**

Hon. Henry E. Autrey  
U.S. District Judge  
10N Thomas F. Eagleton  
U.S. Courthouse  
111 South Tenth Street  
St. Louis, MO 63102

Hon. Samuel F. Biery  
U.S. District Judge  
John H. Wood, Jr., U.S. Courthouse  
655 East Durango Boulevard  
San Antonio, TX 78206-1198

Hon. Curtis Lynn Collier  
Chief Judge, U.S. District Court  
U.S. District Court  
Post Office Box 831  
Chattanooga, TN 37401-0931

Hon. George B. Daniels  
U.S. District Judge  
410 Thurgood Marshall  
U.S. Courthouse  
40 Centre Street  
New York, NY 10007

Hon. J. Phil Gilbert  
U.S. District Judge  
U.S. Courthouse  
301 West Main Street  
Benton, IL 62812-1362

Hon. Jean C. Hamilton  
U.S. District Judge  
16N Thomas F. Eagleton  
U.S. Courthouse  
111 South Tenth St., 16th Floor  
St. Louis, MO 63102-1116

Hon. Joseph M. Hood  
Chief Judge, U.S. District Court  
Federal Building  
101 Barr Street  
Lexington, KY 40588

Hon. David G. Larimer  
U.S. District Judge  
250 Kenneth B. Keating Fed. Bldg.  
100 State Street  
Rochester, NY 14614-1324

Hon. Stephen N. Limbaugh  
Senior U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth St., 3rd Floor  
St. Louis, MO 63102-9958

Hon. Catherine D. Perry  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 14th Floor  
St. Louis, MO 63102-9958

Hon. Michael J. Reagan  
U.S. District Judge  
200 Melvin Price Fed. Bldg.  
& U.S. Courthouse  
750 Missouri Avenue  
E. St. Louis, IL 62201

Hon. Thomas B. Russell  
U.S. District Judge  
307 Federal Building  
501 Broadway Street  
Paducah, KY 42001

Hon. Charles A. Shaw  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 12th Floor  
St. Louis, MO 63102-9958

Hon. Charles R. Simpson, III  
Chief Judge, U.S. District Court  
247 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202

Hon. Rodney W. Sippel  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 10th Floor  
St. Louis, MO 63102-1116

Hon. Myron H. Thompson  
U.S. District Judge  
P.O. Box 235  
Montgomery, AL 36101-0235

Hon. E. Richard Webber  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth St., 12th Floor  
St. Louis, MO 63102-1116

Hon. Dean Whipple  
Chief Judge, U.S. District Court  
8652 Charles Evans Whittaker  
U.S. Courthouse  
400 East Ninth Street  
Kansas City, MO 64106

Hon. Douglas P. Woodlock  
U.S. District Judge  
4110 John Joseph Moakley  
U.S. Courthouse  
One Courthouse Way  
Boston, MA 02210-3002

## INVOLVED CLERKS LIST

### DOCKET NO. 1657

## IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION

Debra P. Hackett, Clerk  
U.S. District Court  
P.O. Box 711  
Montgomery, AL 36101-0711

J. Michael McMahon, Clerk  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007-1312

James Woodward, Clerk  
3300 Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street  
St. Louis, MO 63102

Jeffrey A. Apperson, Clerk  
120 Federal Building  
241 East Main Street  
Bowling Green, KY 42101

Jeffrey A. Apperson, Clerk  
106 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202

Leslie G. Whitmer, Clerk  
313 John C. Watts Federal Building  
330 West Broadway  
Frankfort, KY 40601

Leslie G. Whitmer, Clerk  
P.O. Drawer 3074  
Lexington, KY 40588-3074

Leslie G. Whitmer, Clerk  
P.O. Box 5121  
London, KY 40745

Leslie G. Whitmer, Clerk  
203 Federal Building  
110 Main Street  
Pikeville, KY 41501

Norbert G. Jaworski, Clerk  
U.S. Courthouse  
301 West Main Street  
Benton, IL 62812-1362

Norbert G. Jaworski, Clerk  
U.S. District Court -  
P.O. Box 249  
E. St. Louis, IL 62202-0249

Patricia L. Brune, Clerk  
2710 Charles Evans Whittaker  
U.S. Courthouse  
400 E. Ninth Street  
Kansas City, MO 64106

Patricia L. McNutt, Clerk  
U.S. District Court  
P.O. Box 591  
Chattanooga, TN 37401-0591

Rodney C. Early, Clerk  
2120 Kenneth B. Keating Federal Building  
100 State Street  
Rochester, NY 14614-1368

Sarah Thornton, Clerk  
Clerk's Office - Attn: Sherry Jones  
U.S. Courthouse  
595 Main Street  
Worcester, MA 01608

William G. Putnicki, Clerk  
John H. Wood, Jr. U.S. Courthouse  
655 East Durango Boulevard  
San Antonio, TX 78206-1198